

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:16 CR 528 AGF (PLC)
)	
TODD BECKMAN,)	
)	
Defendant.)	

**GOVERNMENT'S RESPONSE TO DEFENDANT'S
PRO SE MOTION TO FILE AN APPEAL OUT OF TIME**

On December 14, 2016, a federal Grand Jury in the EDMO returned an indictment charging Todd Beckman and others with one count of Conspiracy to Kidnap and one count of Brandishing a Firearm in Furtherance of a Crime of Violence. (Doc. #20)

On November 2, 2017, Beckman pleaded guilty to Count I of the indictment, Conspiracy to Kidnap. As part of the plea agreement, the government agreed to dismiss Count II at the time of sentencing. (Doc. #181)

On February 9, 2018, following a sentencing hearing, this Court sentenced the defendant to 240 months incarceration and a \$50,000.00 fine. In keeping with the plea agreement, the government moved to dismiss Count II. This Court entered judgment on the same date. (Doc. #253)

Also on February 9, 2018, Beckman signed, and counsel filed, their Notice of Compliance With Local Rule 12.07(A). By placing a check mark in the box next to a provision of the form, the Notice indicates, "Defense counsel has explained to defendant his/her right to appeal and defendant has not requested that counsel file a Notice of Appeal." (Doc. #255)

Over twenty months later, on November 22, 2019, Beckman moved this Court for leave to file an untimely notice of appeal from his conviction. (Doc. #359) In support of that motion, Beckman argues that he directed his then-attorney, Travis L. Noble, Jr., to file an appeal on his behalf. Beckman appears to claim in his motion that for well over a year-and-a-half, he labored under the mistaken belief that attorney Noble filed an appeal.

In his pro se motion, Beckman states, “the defendant’s former trial [sic] lawyer lead him to believe on February 9, 2018, the day of his sentencing hearing and months after his sentencing hearing, that Defendant Beckman had a pending appeal that was initiated or was filed by the former trial attorney...” This unsubstantiated claim is directly contrary to the Notice of Compliance With Local Rule 12.07(A), signed by counsel and Defendant Beckman, that indicates the exact opposite.

Federal Rules Of Appellate Procedure

The District Court can extend the time for filing notices of appeal from criminal convictions:

In a criminal case, a defendant’s notice of appeal must be filed in the district court within 14 days after...the entry of either the judgment or the order being appealed.

Fed.R.App.P. 4(b).

Regarding motions for extensions of time to file such a notice, the Federal Rules of Appellate Procedure further provide in pertinent part:

Upon a finding of excusable neglect or good cause, the district court may-before or after the time has expired, with or without motion or notice-extend the time to file a notice of appeal for a period *not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)*. (Emphasis added).

Fed.R.App.P. 4(b)(4).

As previously noted, the District Court entered judgment against Beckman on February 9, 2018, and Beckman filed his motion for an extension on November 22, 2019, approximately twenty months later. Under Fed.R.App.P. 4(b)(4), a District Court can consider motions for an extension no later than forty-four days after entry of judgment. “Although [this court] retain[s] jurisdiction over an untimely appeal from a criminal judgment, Rule 4(b)'s timeliness requirements remain inflexible and ‘assure relief to a party properly raising them.’ ” *United States v. Watson*, 623 F.3d 542, 546 (8th Cir. 2010) *quoting Eberhart v. United States*, 546 U.S. 12, 19, 126 S.Ct. 403, 163 L.Ed.2d 14 (2005).

The government respectfully requests defendant Beckman’s Motion To File An Appeal Out Of Time be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2019, the foregoing was filed electronically with the Clerk of the Court. I further hereby certify that on December 6, 2019, the foregoing was deposited for mailing via United States Postal Service to the following non-participant in Electronic Case Filing:

Todd Beckman
#46405-044
Federal Correctional Institution
F.C.I. Texarkana
P.O. Box 7000
Texarkana, TX 75505

/s/ John T Davis
John T Davis #40915MO
Assistant United States Attorney